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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/849,623

05/07/2001

Todd Gross

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9502

7590

12/02/2004

Banner & Witcoff, LTD

Att: Douglas Robinson

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EXAMINER

GEORGE, KEITH M

ART UNIT

PAPER NUMBER

2663

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/849,623

Applicant(s)

GROSS, TODD

Examiner

Keith M. George

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12 Nov 02.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claim and the specification state that different channels include 32K, 64K, 128K, 256K and a higher speed TDMA link. It is not clear what is intended by stating these numbers in relationship to the channels. The numbers need to identify some form of measurement, for example bits per second or bytes per second.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Vuong et al., U.S. Patent 6,240,077, hereinafter Vuong.

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5. Referring to claim 1, Vuong teaches in figure 2 an apparatus for coupling download feeds from wireless subscriber units (download feeds) to a gateway modem or wireline channel interface (server/switch). In figure 5, Vuong provides more detail to the multiplexor (satellite transceiver card) and teaches that it includes a receive controller. Vuong then goes on to teach that in the event bandwidth alteration is required, receive controller performs an engagement sequence for dynamic bandwidth allocation (dynamically allocates bandwidth) and provides further detail of this in step 610 of the flowchart shown in figure 6 (column 9, lines 37-39).

6. Referring to claim 2, Vuong teaches the apparatus shown in reference to claim 1 above and also teaches that the communication system in accordance to the present invention utilizes well-known and widely accepted technology in FDMA and TDMA techniques (TDMA based transceiver) (column 5, lines 30-32).

7. Referring to claim 3, Vuong teaches the apparatus shown in reference to claim 1 above and also teaches that the multiplexor of figure 2 modulates the formatted data with a carrier transmit frequency which has been selected according to the TDMA scheme. In the preferred embodiment, a single carrier transmit frequency is used for all outbound data (single carrier per channel) (column 7, lines 1-5).

8. Referring to claim 4, Vuong teaches the apparatus shown in reference to claim 1 above and also teaches that protocol messages are exchanged to alter the communication bandwidth (adapt to a different data rate) (column 9, lines 43-46).

9. Referring to claim 5, Vuong teaches the apparatus shown in reference to claim 4 above and also teaches that the communication system in accordance to the present invention can adjust to dynamically provide the bandwidth necessary for different applications including high data

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transfer rates required for video transmission (at least one high speed receiver receiving at least one high speed downlink channel) (column 5, lines 26-29).

10. Referring to claim 6, Referring to claim 4, Vuong teaches the apparatus shown in reference to claim 1 above and also teaches in figure 2 by the use of two-way arrows that the multiplexor is a two way device and therefore contains an uplink transmitter to communicate with the wireless subscribers.

11. Referring to claim 7, Vuong teaches the apparatus shown in reference to claim 6 above and has also taught in reference to claims 2 and 3 above that the invention utilizes well-known and widely accepted technology in FDMA and TDMA techniques and in the preferred embodiment, a single carrier transmit frequency is used for all outbound data.

12. Referring to claims 8 and 9, Vuong teaches the apparatus shown in reference to claim 6 above and also teaches dynamic bandwidth allocation to shift up to a higher bandwidth or down to a lower bandwidth (different channels including different bandwidths) (column 9, lines 37-46).

13. Referring to claim 10, Vuong teaches the apparatus shown in reference to claim 6 above and also teaches that the system will alter the communication bandwidth (i.e., shift up to a higher bandwidth or down to a lower bandwidth) (switch to higher capacity channels) (column 9, lines 44-45).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith M. George whose telephone number is 571-272-3099. The examiner can normally be reached on M-Th 7:00-4:30, alternate F 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Keith M. George
29 November 2004



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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

11/29/04